

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4653 of 1983

Date of decision: 29-08-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ABHESING KABHAI

Versus

COMMISSIONER OF POLICE

Appearance:

MR SB NANAVATI for Petitioner

Mr. Mukesh Patel for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 29/08/96

ORAL JUDGEMENT

The petitioner, an armed police constable working as driver in motor transport section of the Police Head Quarters, filed this writ petition before this Court challenging thereunder notice dated 8-9-1983 issued by respondent No.2 under which he was called upon to show cause as to why he should not be sent back as police

constable and why the loss which has been caused to the vehicle driven by him, which met with accident, should not be recovered from him. No action whatsoever has been taken against the petitioner, except calling upon to show cause. Writ petition against show cause notice is not maintainable, unless it is the case of the petitioner that the authority has no jurisdiction whatsoever to issue such notice. Reference in this respect may have to be made to the decision of the Supreme Court in the case of Executive Engineer, B.S.H.B. v. Ramesh Kumar Singh, (1996) 1 SCC 327. The contention of the learned counsel for the petitioner is that in the criminal case which has been filed against the petitioner in connection with the accident of the vehicle of the Department he has been acquitted and as such the Department has no jurisdiction to punish him for that negligence. I do not find any substance in this contention. The Department could have proceeded simultaneously against the petitioner for his criminal liability as well as for the loss which has been caused to the property of the Department. There is yet another reason not to interfere in the matter at this stage. Whatsoever points the petitioner wants to raise against the show cause notice he may raise in the reply and get decision from the authority concerned. Thereafter the petitioner has sufficient remedy available under the relevant Rules. The approach of the petitioner in such hot haste at the stage of show cause notice is deprecated. The writ petition is wholly misconceived.

2. In the result the writ petition fails and the same is dismissed. Rule discharged. Ad interim relief granted earlier by this court stands vacated. No order as to costs.

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